

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Georgia Rochon	Team: Squad #2	CCRB Case #: 201900681	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 01/09/2019 4:01 PM	Location of Incident: [REDACTED]	Precinct: 20	18 Mo. SOL 7/9/2020	EO SOL 2/23/2021	
Date/Time CV Reported Thu, 01/10/2019 4:48 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 01/21/2019 11:23 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Nicholas Ramsammy	22362	953301	020 PCT
2. POF Darlene Rodriguez	21197	959063	020 PCT
3. POM Sokratis Toumanidis	06739	937646	020 PCT
4. SGT John Oconnor	05175	916347	020 PCT
5. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Yanson Filpo	11918	965719	020 PCT
2. POM Noel Pascua	03862	937251	020 PCT
3. POM Jerry Hernandez	02132	965749	020 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Nicholas Ramsammy	Force: Police Officer Nicholas Ramsammy used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
B.POF Darlene Rodriguez	Force: Police Officer Darlene Rodriguez used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
C.POM Sokratis Toumanidis	Force: Police Officer Sokratis Toumanidis used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
D. An officer	Force: An officer used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
E.POM Sokratis Toumanidis	Force: Police Officer Sokratis Toumanidis used a chokehold against § 87(2)(b) [REDACTED]	[REDACTED]
F.POM Sokratis Toumanidis	Force: Police Officer Sokratis Toumanidis restricted § 87(2)(b) [REDACTED]'s breathing.	[REDACTED]
G.SGT John Oconnor	Abuse: Sergeant John O'Connor did not obtain medical treatment for § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

On January 10, 2019, Sergeant Nizama Metjaic of the 20th Precinct filed the following complaint with the Internal Affairs Bureau on behalf of § 87(2)(b). On January 21, 2019, the CCRB received the complaint.

On January 9, 2019, at approximately 4:01 p.m., § 87(2)(b) exited the § 87(2)(b) located at § 87(2)(b) in Manhattan with stolen merchandise. Police Officer Nicholas Ramsammy of the 20th Precinct, who had been informed that § 87(2)(b) was shoplifting by § 87(2)(b), attempted to apprehend § 87(2)(b) as he exited the building. § 87(2)(b) evaded Police Officer Ramsammy, knocking § 87(2)(b) to the ground. Police Officer Ramsammy was joined by Police Officer Darlene Rodriguez and Police Officer Sokratis Toumanidis of the 20th Precinct in pursuing § 87(2)(b). The officers took § 87(2)(b) to the ground, and handcuffed him (**Allegation A, Allegation B and Allegation C—Force—Physical Force—§ 87(2)(g)**). During the struggle, § 87(2)(b) felt an officer whom he could not see punch him once in the back (**Allegation D—Force—Physical Force—§ 87(2)(g)**). While § 87(2)(b) was on the ground, Police Officer Ramsammy allegedly put his foot on § 87(2)(b) back and left it there for 15 minutes (**within Allegation A**), while Police Officer Rodriguez allegedly put her foot on § 87(2)(b) ankle for 15 minutes (**within Allegation B**). During this time, Police Officer Toumanidis allegedly used a chokehold on § 87(2)(b) restricting his breathing for approximately one second (**Allegation E—Force—Chokehold—§ 87(2)(g)** and **Allegation F—Force—Restricted Breathing—§ 87(2)(g)**).

Once § 87(2)(b) was handcuffed, Sergeant John O'Connor of the 20th Precinct was called to the scene. Before Sergeant O'Connor arrived, § 87(2)(b) requested medical attention, and then allegedly changed his mind and told Sergeant O'Connor that he wanted to be taken to the stationhouse. No medical attention was provided for § 87(2)(b) until he made another request at the stationhouse several hours later (**Allegation G—Abuse of Authority—Refusal to obtain medical treatment—§ 87(2)(g)**). § 87(2)(b) was arrested and charged with robbery, burglary, petit larceny, resisting arrest, criminal possession of stolen property and criminal trespassing (Board Review 08).

A cell phone video taken by § 87(2)(b) (Board Review 05) and a cell phone video of footage from the building surveillance system were obtained by the investigation (Board Review 01). The videos are summarized in IA #71 (Board Review 09).

Findings and Recommendations

Allegation (A) – Force: Police Officer Nicholas Ramsammy used physical force against

§ 87(2)(b)

Allegation (B) – Force: Police Officer Darlene Rodriguez used physical force against

§ 87(2)(b)

Allegation (C) – Force: Police Officer Sokratis Toumanidis used physical force against

§ 87(2)(b)

Allegation (D) – Force: An officer used physical force against

§ 87(2)(b)

§ 87(2)(b) was interviewed via the video-teleconferencing (VTC) system on February 12, 2019, and a follow-up interview was conducted via VTC on April 22, 2019 (Board Review 10). § 87(2)(b) provided a telephone statement on April 16, 2019 (Board Review 11), and § 87(2)(b) provided a telephone statement on May 8, 2019 (Board Review 12). Police Officer Ramsammy was interviewed May 10, 2019, and Police Officer Rodriguez was interviewed on May 16, 2019. Sergeant O'Connor and Police Officer Toumanidis were interviewed on May 23, 2019.

That § 87(2)(b) was exiting § 87(2)(b) with shoplifted merchandise on January 9, 2019 is undisputed. In his initial interview, § 87(2)(b) described being immediately brought to the ground upon exiting § 87(2)(b) and could not provide a description of the officer who brought him to the ground. In his follow up interview, § 87(2)(b) described a prelude to the takedown in which Police Officer Toumanidis and another male in plainclothes pushed him back and forth before Police Officer Toumanidis took him to the ground. While on the ground he felt an officer whom he could not see punch him in the back.

§ 87(2)(b) alleged that before he was handcuffed, an officer put his foot on his lower back (in his first interview § 87(2)(b) described the location of the foot as his “chest,” but did not indicate which side of his body was on the ground) and kept it there while another officer handcuffed § 87(2)(b) and only removing it when § 87(2)(b) was stood up, after approximately fifteen minutes. While in his first interview he described this officer as white, in his second interview he described this officer as only a “young and strong” male who was not Police Officer Toumanidis, leading the investigation to identify Police Officer Ramsammy as the subject of the allegation. § 87(2)(b) also alleged that Police Officer Rodriguez put her foot on his left ankle at around the same time that Police Officer Ramsammy put his foot on § 87(2)(b) back, and kept it there for the same time period.

§ 87(2)(b)'s account of the incident differed from § 87(2)(b) significantly, particularly in that she described § 87(2)(b) knocking her over before tripping and falling to the ground, at which point officers struggled to handcuff him, ultimately succeeding after approximately five to eight seconds. As the officers attempted to handcuff § 87(2)(b) while he was on the ground, he moved his arms and rocked his body back and forth. § 87(2)(b) did not see any officer put their foot on § 87(2)(b) chest, but reentered § 87(2)(b) while § 87(2)(b) was still on the ground.

§ 87(2)(g) § 87(2)(b) explained that Police Officer Ramsammy was standing immediately to the right of the door as § 87(2)(b) exited.

Police Officer Ramsammy identified himself to § 87(2)(b) as a police officer, immediately after which § 87(2)(b) pushed § 87(2)(b) landed on the ground after tripping over § 87(2)(b)'s body. Once on the ground, § 87(2)(b) “wiggled” his body as officers attempted to handcuff him. § 87(2)(b) further testified that he did not see any officer put a foot on § 87(2)(b) chest or punch § 87(2)(b) but also recalled that he returned to the store while § 87(2)(b) was still on the ground.

Police Officer Ramsammy, Police Officer Rodriguez and Police Officer Toumanidis all testified that immediately after exiting the building, § 87(2)(b) knocked over § 87(2)(b) in an attempt to avoid the officers. Police Officer Ramsammy testified that he then grabbed § 87(2)(b) arm, but lost his grip when § 87(2)(b) pushed past him and began to run away. After taking two to three steps, Police Officer Ramsammy wrapped his arms around § 87(2)(b) torso and arms and took him to the ground. Police Officer Ramsammy testified that he was the only officer who made contact with § 87(2)(b) in order to bring § 87(2)(b) to the ground. Once on the ground, § 87(2)(b) continually brought his right arm underneath his body as officers attempted to gain control of this arm to handcuff § 87(2)(b) also kicked his feet while on the ground. Police Officer Ramsammy did not put his foot on § 87(2)(b) back, punch § 87(2)(b) or put any weight on § 87(2)(b) body other than with his arms. He did not see any other officer punch § 87(2)(b)

Police Officer Rodriguez's account of the events leading up to the takedown was largely consistent with Police Officer Ramsammy's, as she described a struggle to gain control of § 87(2)(b) arms in which § 87(2)(b) was able to pull his arms away and evade control. However, Police Officer Rodriguez testified that Police Officer Ramsammy and Police Officer Toumanidis were both responsible for taking § 87(2)(b) to the ground by pulling his arms, and she did not recall her own involvement in the takedown. Police Officer Rodriguez, like Police Officer Ramsammy, testified that § 87(2)(b) repeatedly pulled his hands away from the officers while on the ground. She did not recall any officer putting their foot on § 87(2)(b) back, and denied putting her foot on § 87(2)(b) ankle. She did not see any officer punch § 87(2)(b) while he was on the ground, and did not do so herself.

Police Officer Toumanidis also recounted a struggle in which officers attempted to grab § 87(2)(b) arms, and § 87(2)(b) evaded them. Police Officer Toumanidis testified that Police Officer Rodriguez and Police Officer Ramsammy were the officers participating in this struggle, and that both were responsible for bringing § 87(2)(b) to the ground by his arms. Once § 87(2)(b) was on the ground, he rolled his body back and forth to avoid being handcuffed, and kicked Police Officer Rodriguez's leg. Police Officer Toumanidis testified that no officer put their foot on § 87(2)(b) back, and that he did not recall any officer putting their foot on § 87(2)(b) ankle. Further, no officer punched § 87(2)(b)

Surveillance footage of the incident, while blurry, is largely consistent with the three officers' depictions of the incident (Board Review 01). The footage shows a man in red sweatshirt, matching § 87(2)(b)'s description of Police Officer Ramsammy, approaching § 87(2)(b) and grabbing his arm. § 87(2)(b) then pulls his arm from this grip, and moves away from Police Officer Ramsammy, knocking over § 87(2)(b) in the process. As § 87(2)(b) runs, Police Officer Rodriguez and Police Officer Toumanidis join in chasing him. It is not clear from the

video which officer is primarily responsible for taking down § 87(2)(b) as the takedown itself occurs mostly off-camera, but it is clear that Police Officer Ramsammy is leading the pursuit of § 87(2)(b). Portions of the officers' attempt to handcuff § 87(2)(b) are visible, but are not conclusive. No officer can be seen putting their foot on § 87(2)(b) back or ankle, however, the footage ends before § 87(2)(b) is lifted from the ground.

A cell phone video recorded by § 87(2)(b) shows § 87(2)(b) handcuffed on the ground, lying on his side, while he curses at § 87(2)(b) who is standing nearby. No one has their foot on § 87(2)(b) back, ankle, or any part of his body.

Both Police Officer Ramsammy and Police Officer Rodriguez completed Threat Resistance and Injury (TRI) Reports (Board Review 04) for this incident in which they acknowledge effecting a forcible takedown, but no additional force. Both officers noted that § 87(2)(b) used a foot strike and pushed and shoved members of service, and that they used force to overcome § 87(2)(b) resistance or aggression, and for no other reason.

§ 87(2)(b) medical records from § 87(2)(b) (Privileged Documents) state that he complained of and was primarily treated for head pain, but that he also mentioned pain to his back and left leg, all stemming from an NYPD altercation. § 87(2)(b) head injury is attributed to hitting his head on pavement "while wrestling with police during arrest," and he received a CAT scan that indicated a soft tissue hematoma without evidence of acute traumatic injury to the brain. There is no indication that § 87(2)(b) specified the cause of his back or left leg pain, and he received no treatment for his back or leg while at the hospital.

§ 87(2)(b) testified that Police Officer Ramsammy and Police Officer Rodriguez kept their feet on his body for the entire time that he was on the ground, while the cell phone video provided by § 87(2)(b) shows § 87(2)(b) clearly lying on the ground without any foot on his body. § 87(2)(g)

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Patrol Guide Procedure 221-01 and Patrol Guide Procedure 221-02 (Board Review 14) detail the circumstances under which officers may use physical force in effecting an arrest. When a suspect is actively resisting arrest, an officer is permitted to use "the reasonable force necessary to gain control," of the suspect.

§ 87(2)(g)
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Allegation (E) – Force: Police Officer Sokratis Toumanidis used a chokehold against § 87(2)(b)

Allegation (F) – Force: Police Officer Sokratis Toumanidis restricted § 87(2)(b) breathing.

§ 87(2)(b) alleged that after he was taken to the ground, Police Officer Toumanidis briefly put his foot on the left side of § 87(2)(b) neck. § 87(2)(g)

§ 87(2)(b) In his first interview, § 87(2)(b) could not recall whether he was handcuffed when this occurred, while in his second interview he testified that Police Officer Toumanidis removed his foot in order to handcuff him. Initially § 87(2)(b) stated that Police Officer Toumanidis’ foot did not restrict his breathing, while he later testified that his breathing was restricted for approximately one second.

Both § 87(2)(b) and § 87(2)(b) stated that they were present for the entire period leading up to § 87(2)(b) handcuffing, and neither observed an officer put their foot on § 87(2)(b) neck.

Police Officer Ramsammy also testified that no officer put their foot on § 87(2)(b) neck or made contact with § 87(2)(b) neck in any manner. § 87(2)(b) did not express that he was having difficulty breathing, and his breathing did not appear to be restricted.

Police Officer Rodriguez had no recollection of any officer applying pressure to § 87(2)(b) neck at any point while § 87(2)(b) was on the ground, and she did not recall that § 87(2)(b) breathing appeared to be restricted. She also did not recall § 87(2)(b) mentioning that his breathing was restricted.

Police Officer Toumanidis denied putting his foot on § 87(2)(b) neck, and further testified that no officer made contact with § 87(2)(b) neck at any point. He stated that § 87(2)(b) did not complain of having trouble breathing, and his breathing did not appear to be restricted.

As described above, surveillance footage of the incident is inconclusive. The attempt to handcuff § 87(2)(b) takes place largely off-screen, and while it does not appear that any officer places their foot on § 87(2)(b) neck before he is handcuffed, it cannot be ruled out that this occurs after the termination of the footage, or even in the footage, particularly given that § 87(2)(b) was initially uncertain as to whether the pressure on his neck occurred before or while he was handcuffed.

Patrol Guide Procedure 221-01 (Board Review 14) defines a chokehold as “any pressure to the throat or windpipe, which may prevent or hinder breathing or reduce intake of air.”

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (G) – Abuse of Authority: Sergeant John O’Connor refused to obtain medical attention for § 87(2)(b)

§ 87(2)(b) testified that, while lying on the ground after being handcuffed, he told the officers that he wanted an ambulance because his lower back and head were hurting. § 87(2)(b) was not treated on the scene, and was taken to the stationhouse. Once at the stationhouse he reiterated that he wanted an ambulance. He finally informed a sergeant at the desk that he wanted to go to the hospital, and was taken to § 87(2)(b)

§ 87(2)(b) stated that § 87(2)(b) referenced specific parts of his body that hurt while lying on the ground, but that he did not request medical attention. Someone, whom § 87(2)(b) believed to be an officer, asked § 87(2)(b) if he wanted an ambulance, and § 87(2)(b) did not respond. § 87(2)(b) reentered the store while § 87(2)(b) was on the ground, and thus was not witness to the entire period during which § 87(2)(b) claimed to have requested medical attention.

§ 87(2)(b) also reentered the store while § 87(2)(b) was still on the ground, and did not recall § 87(2)(b) requesting medical attention at any point. He did tell the officers that they had beat him up, but did not complain of any specific body part that hurt.

Police Officer Ramsammy testified that § 87(2)(b) stated that he wanted to go to the hospital while on the ground after being handcuffed. He elaborated that he wanted to go to the hospital because Police Officer Ramsammy had allegedly kicked him in the head. Police Officer Ramsammy asked § 87(2)(b) if he was actually asking to go to the hospital, and § 87(2)(b) responded, “No, just get me the fuck out of here, I want to go to the Precinct.” Sergeant O’Connor then arrived on the scene, and asked § 87(2)(b) if he wanted to go to the hospital, and § 87(2)(b) reiterated that he wanted to go to the stationhouse. § 87(2)(b) never expressed wanting to go to the hospital after his initial request, and Police Officer Ramsammy was not aware of § 87(2)(b) asking someone for medical attention at the stationhouse.

Police Officer Rodriguez’s account of this portion of the incident was largely consistent with Police Officer Ramsammy’s, except that she recalled that § 87(2)(b) first made mention of wanting to go to the hospital when Sergeant O’Connor had already arrived, and that he did not specify any parts of his body that were in pain. Sergeant O’Connor and the other officers told § 87(2)(b)

§ 87(2)(b) that they would call him an ambulance, to which § 87(2)(b) responded, “No, just take me back to the fucking precinct.” He did not request to go to the hospital again, and Police Officer Rodriguez did not interact with him at any point after he left the scene.

Like Police Officer Ramsammy, Police Officer Toumanidis recalled that § 87(2)(b) asked to go to the hospital before Sergeant O’Connor arrived on the scene. Police Officer Toumanidis told § 87(2)(b) that they would take him to the hospital. Once Sergeant O’Connor arrived, § 87(2)(b) said he wanted to go to the stationhouse. Police Officer Toumanidis did not recall whether § 87(2)(b) specified that he had changed his mind about going to the hospital, or that he stated explicitly that he no longer wanted to go to the hospital. Police Officer Toumanidis left the scene at the same time as § 87(2)(b) but did not take him to the stationhouse. Once at the stationhouse, Police Officer Toumanidis conversed with § 87(2)(b) in the cell area, during which time Police Officer Toumanidis told § 87(2)(b) that if he really needed to go to the hospital, they would take him. § 87(2)(b) responded that he was okay. At no point did § 87(2)(b) inform Police Officer Toumanidis that he wanted medical attention while in the stationhouse.

Sergeant O’Connor recalled arriving on the scene and introducing himself to § 87(2)(b). He asked § 87(2)(b) if he wanted medical attention and if he was injured, and § 87(2)(b) responded that he did not want medical attention and was not injured. He told Sergeant O’Connor that he wanted to go to the “Precinct.” At no point did § 87(2)(b) request medical attention in Sergeant O’Connor’s presence, and Sergeant O’Connor was not informed by any officer that § 87(2)(b) had requested medical attention previously. Sergeant O’Connor remained at the scene while § 87(2)(b) was transported to the stationhouse, and had no further interaction with § 87(2)(b).

The 20th Precinct Command Log from January 9, 2019 (Board Review 13) shows that § 87(2)(b) was brought to the stationhouse at 4:20 p.m., that his condition at this time appeared normal and that he was not requesting medical attention. § 87(2)(b) was not transported to the hospital until § 87(2)(b).

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Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 05).
- Police Officer Toumanidis has been a member of service for fourteen years and has been a subject in one additional CCRB complaints and two allegations, none of which were substantiated. § 87(2)(g)

- Police Officer Rodriguez has been a member of service for three years and has been a subject in one additional CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)
- Police Officer Ramsammy has been a member of service for six years and has been a subject in four additional CCRB complaints, and 8 allegations, none of which were substantiated. § 87(2)(g)
- Sergeant John O'Connor has been a member of service for 23 years and has been a subject in three additional CCRB complaints and six allegations. § 87(2)(g)
 - In CCRB case 201311595, a threat of arrest allegation was substantiated against Sergeant O'Connor. The Board recommended that Sergeant O'Connor be disciplined with Instructions, and the NYPD imposed no disciplinary action.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of July 2, 2019, the New York City Officer of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (Board Review 07).
- § 87(2)(b)
- According to OCA, in the court case resulting from his arrest during this incident, § 87(2)(b) pleaded guilty to burglary § 87(2)(b) (06 Board Review).

Squad No.: _____

Investigator:	_____ Signature	_____ Print Title & Name	_____ Date
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Squad Leader:	_____ Signature	_____ Print Title & Name	_____ Date
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Reviewer:	_____ Signature	_____ Print Title & Name	_____ Date
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